REMARKS

Entry of this amendment and favorable reconsideration of this application is requested.

Claims 5, 6, 8, 9 and 14-19 are in the case, the amendment filed January 29, 2004, standing unentered.

The only art rejection still adhered to by the Examiner is under 35 U.S.C. § 102(e) and § 103(a), the claims being unpatentable over Tanamura et al.. The previous rejections over Tokia et al. and Briney et al. are no longer adhered to by the Examiner.

It is submitted that the rejection over Tanamura et al. equally lacks viability, the invention having now been more particularly defined and believed to overcome the Examiner's criticisms thereof as set forth in her Advisory Action of February 18, 2004.

Thus the invention relates to a barrier rib for an EL display element which is formed from a radiation sensitive resin composition comprising (A) an alkali soluble resin selected from the group consisting of a novolak resin, a homopolymer of a radical polymerizable monomer having a phenolic hydroxyl group, a homopolymer of a radical polymerizable monomer have a carboxyl group, and an epoxy group-containing a copolymer of at least one unsaturated carboxylic monomer selected from the group consisting of an unsaturated carboxylic acid and an unsaturated carboxylic anhydride, an epoxy group-containing unsaturated monomer and another olefinic unsaturated monomer other than said at least one unsaturated carboxylic monomer and said epoxy-group-containing unsaturated monomer (B) a polymerizable compound having an ethylenically unsaturated bond, and (C) a radiation sensitive polymerization initiator, on a substrate, said barrier rib having a trapezoidal cross section form with a longer top side than the bottom side on the substrate and an angle formed by a straight line connecting the upper pattern edge and the lower pattern edge and the top side of 15 to 75°.

Tanamura et al. clearly fails to teach, within the meaning of 35 U.S.C. § 102, nor make obvious, within the meaning of 35 U.S.C. § 103, Applicants' discovery as now defined by the claims. More specifically, the claims differ in the nature of the alkali soluble resin (A), as now specifically defined by the claims. Nowhere in Tanamura et al. is there any disclosure of a copolymer derived from an epoxy group-containing unsaturated monomer. Further, in the examples of Tanamura et al., as note in Examples 1, 2, 4 and 5, a copolymer of styrene, α-methylstyrene, acrylic acid and (2-hydroxy-4-acryloyloxymethylphenyl) acrylate (molar ratio = 45:15:20:20) is present. This copolymer does not comprise an epoxy group-containing unsaturated compound (monomer), nor is it within the scope of the present claims. Manifestly, thus, anticipation, within the meaning of § 102 of Statute requiring complete identity in the prior art is not present.

Further, due to the particular nature of the claimed barrier material superior results are obtained with regard to having excellent heat resistance and adhesion, as so shown in the examples of the case. Such clearly rebuts any possible prima facie case of obviousness conceivably made out by the reference, within the meaning of 35 U.S.C. § 103.

With regard to the additional limitations of Claims 8 and 16-18, the following is pointed out. By controlling the amount of the volatile component, the entry of impurities into the EL layer can be prevented, thereby making it possible to prevent such problems as the occurrence of a lighting failure of the EL display element and a reduction in the brightness of emitted light. Such also is not disclosed by the reference, nor necessarily inherent. Note ex parte Levy, 17 USPQ2d 1461.

Moreover, when the barrier rib of the present invention contains a colorant, it has light screening properties and preferably an OD value of 0.1 or more when it has a film thickness of 1 μm. When the OD value is smaller than 0.1, the light emitted from EL easily transmits the barrier rib and it is difficult to prevent a reduction in light emission contrast. Thus, the

additional limitation as called for by Claim 6 providing for unobviously superior results also is not disclosed by the art.

Accordingly, withdrawal of the rejections of the claims under 35 U.S.C. § 102 and 103 is requested.

With regard to the rejection of Claim 8 and 16-18 under the second paragraph of 35 U.S.C. § 112, the claims have been amended in a manner believed to obviate this rejection. Specifically, it has now been made clear in the claim how the amount of a volatile component present in the barrier rib is determined. It is the volatile component which may have been introduced into the composition in making the barrier rib that is evaluated by a method as now so specifically defined by the claims. Note page 44, lines 5-12 of the specification. By so controlling the amount of volatile component being present, this makes it possible to prevent occurrence of lighting failure of the EO display element and a reduction in the brightness of emitted light.

Should any further amendment to the claims be considered necessary by the Examiner, he is requested to contact the undersigned by telephone so that mutually agreeable language may be arrived at.

Withdrawal of the rejection of the claims under 35 U.S.C. § 112, second paragraph, thus is requested.

It is submitted that this application is now in condition for allowance and which is solicited.

Respectfully submitted,

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Ex parte Levy (BdPatApp&Int) 17 USPQ2d 1461 Ex parte Levy

U.S. Patent and Trademark Office, Board of Patent Appeals and Interferences
17 USPQ2d 1461

Decided October 16, 1990
No. 90-1864

Headnotes

PATENTS

1. Patentability/Validity - Anticipation - Identity of elements (§ 115.0704)

Factual determination of anticipation requires disclosure in single reference of every element of claimed invention, and examiner must identify wherein each and every facet of claimed invention is disclosed in applied reference.

2. Patentability/Validity - In general (§ 115.01)

Patentability/Validity - Anticipation - Prior art (§ 115.0703)

Initial burden of establishing prima facie basis to deny patentability rests upon examiner; examiner, if relying upon theory of inherency, must provide basis in fact and/or technical reasoning to reasonably support determination that allegedly inherent characteristic necessarily flows from teachings of applied prior art.

3. Patentability/Validity - Anticipation - Prior art (§ 115.0703)

Examiner erred by rejecting claims for biaxially oriented catheter balloon as anticipated by prior art which does not disclose such biaxially oriented balloon and which has not been shown to be inherently biaxially oriented.

4. Patentability/Validity - Obviousness - Relevant prior art - Particular inventions (§ 115.0903.03)

Examiner erred by rejecting claims for biaxially oriented balloon catheter under 35 USC 103 based upon combined disclosure of two prior art references, one of which was relied upon solely for disclosed use of high viscosity polyethylene terephthalate tubing and the other which was presupposed by examiner to disclose biaxially oriented catheter balloon, since examiner has not established that resulting catheter balloon using high viscosity tubing is biaxially oriented.

Case History and Disposition:

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Application of Stanley B. Levy, serial no. 287,234, filed Dec. 21, 1988, which is a division of serial no. 914,108, filed Oct. 1, 1986, now Re. 32,983, granted July 4, 1989; and a reissue of serial no. 510,812, filed July 5, 1983, now patent no. 4,490,421, granted Dec. 25, 1984, for balloon and manufacture thereof. From examiner's rejection of claims 13 through 17 and 25 (James Seidleck, primary

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examiner), applicant appeals. Reversed.

Attorneys:

Louis H. Rombach, Wilmington, Del., for appellant.

Judge:

Before Steiner, Tarring, and J. Smith, examiners-in-chief.

Opinion Text

Opinion By:

Steiner, examiner-in-chief.

This is an appeal from the final rejection of claims 13 through 17 and 25, which are all of the claims remaining in this application for reissue of U.S. Patent No. 4,490,421.

The subject matter on appeal is directed to a polymeric balloon exhibiting properties which enable its use as a

catheter balloon for medical dilation procedures, such as coronary angioplasty wherein a catheter with a balloon at a distal end thereof is inserted into coronary arteries and inflated. The balloon must be capable of exerting sufficient pressure to dilate stenotic lesions without rupture of the balloon.
Claims 13 and 25, the only independent claims on appeal, read as follows:
13. *High molecular weight, biaxially oriented, flexible polymeric balloon having a wall tensile strength of at least 31,714 psi (218.86 MPa).*
25. *High molecular weight, biaxially oriented, flexible polyethylene terephthalate dilatation catheter balloon.*
The references relied upon by the examiner are:

Wyeth et al. (Wyeth)	3,733,309	May 15, 1973
Schjeldahl et al. (Schjeldahl '989)	4,413,989	Nov. 8, 1983 1
Schjeldahl et al. (Schjeldahl '000)	4,456,000	June 26, 1984 2

Claims 13, 14, 16, 17 and 25 stand rejected under 35 U.S.C. 102 as anticipated by Schjeldahl. Claims 13 through 17 stand rejected under 35 U.S.C. 103 based upon "Schjeldahl et al in view of Wyeth as set forth in the Final Rejection" (paragraph bridging pages 3 and 4 of the Answer). We reverse each rejection.

The Rejection of Claims 13, 14, 16, 17 and 25 Under 35 U.S.C. §102.

[1] The factual determination of anticipation requires the disclosure in a single reference of every element of the claimed invention. *In re Spada,* — F.2d —, 15 USPQ2d 1655 (Fed. Cir. 1990); *In re Bond,* — F.2d —, 15 USPQ2d 1566 (Fed. Cir. 1990); *Diversitech Corp. v. Century Steps, Inc.,* 850 F.2d 675, 7 USPQ2d 1315 (Fed. Cir. 1988); *Constant v. Advanced Micro-Devices, Inc.,* 848 F.2d 1560, 7 USPQ2d 1057 (Fed. Cir. 1988); *Alco Standard Corp. v. TVA,* 808 F.2d 1490, 1 USPQ2d 1337 (Fed. Cir. 1986); *In re Marshall,* 578 F.2d 301, 198 USPQ 344 (CCPA 1978); *In re Arkley,* 455 F.2d 586, 172 USPQ 524 (CCPA 1972). Moreover, it is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference. *Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick,* 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984).
Each of the independent claims on appeal defines a polymeric balloon which is "biaxially oriented." Ergo, in order to establish a *prima facie* basis to defeat the patentability of independent claims 13 and 25 under 35 U.S.C. §102, the examiner is obliged to point out where Schjeldahl discloses a *biaxially oriented* polymeric balloon. The tenor of the final rejection and Answer presupposes that Schjeldahl discloses a biaxially oriented polymeric balloon.
See, for example, page 5 of the Final Rejection wherein the examiner states
he reference clearly teaches a biaxially oriented balloon catheter, and states that it is made by injection blow molding.
See, also, page 5 of the Answer wherein the examiner states
rguments that the references don't disclose a biaxially oriented PET (polyethylene terephthalate) balloon catheter is contrary to what is *clearly stated* in the references (emphasis supplied).
The examiner does not point to, and we do not find, any express disclosure in Schjeldahl of a biaxially oriented polymeric balloon.
It would appear that the relevant evulgations in Schjeldahl which may have led the examiner to his determination are:
(a) an expander 3 formed *from* a thin, flexible inelastic, high tensile strength, *biaxially oriented* synthetic plastic material

(column 2 of Schjeldahl '989, lines 63 through 65, emphasis supplied);
(b) The expander 30 is preferably formed *from* a suitable synthetic plastic material, such as *biaxially oriented* polypropylene, *by an injection blow molding operation* and, as such, is substantially inelastic in both the axial and radial directions and may, for example, have a finished wall thickness in the range of from 0.005 to 0.200 millimeters, 0.025 millimeters being typical (column 6 of Schjeldahl '989, lines 45 through 52, emphasis supplied);
(c) It has been found that an expander of the above-dimensional characteristics can withstand internal inflation pressure in excess of 7 atmospheres without fear of rupture (column 6 of Schjeldahl '989, lines 62 through 65);
(d) injection blow molding step used to form the expander 30 (column 8, lines 16 and 17);
(e) the expander 30 is formed *from* a *biaxially oriented* thin plastic material capable of withstanding relatively high internal pressures without rupture and without exceeding the elastic limit for the material itself (column 10 of Schjeldahl '989, lines 32 through 36, emphasis supplied);
(f) the expander 82 is preferably formed *from* a suitable synthetic plastic material such as *biaxially oriented polypropylene* or *biaxially oriented polyethylene terephthalate by an injection molding operation* and, as such, is substantially inelastic in both the axial and radial direction (column 12 of Schjeldahl '989, lines 22 through 37, emphasis supplied); and
(g) Apparatus as in claim 1 wherein said non-elastic expander member comprises a longitudinally extending thin, flexible, tubular element *formed from a biaxially oriented* synthetic plastic material surrounding said outer tubular member with opposed ends thereof secured to said outer tubular member at spaced apart locations proximate said distal end thereof (claim 8 of Schjeldahl '989, emphasis supplied).
These excerpts do not justify the determination that Schjeldahl discloses a biaxially oriented polymeric balloon. According to Schjeldahl, the *starting* material is a biaxially oriented synthetic plastic material, such as polyethylene terephthalate. The *final article, i.e.,* the expander or catheter balloon, is *not characterized as biaxially oriented.* Moreover, it would appear to be *undisputed* that the *only* method disclosed by Schjeldahl for transforming the biaxially oriented *starting* plastic into the *final* catheter balloon, *i.e.,* injection blow molding, is *not* capable of producing a biaxially oriented catheter balloon. In fact, it is *undisputed* that injection blow molding would *destroy* the biaxial orientation of the plastic starting material. We refer to the Belcher affidavits, Exhibits V, VI and VIII, 4 which factually set forth the differences between "injection blow molding" and "injection stretch blow molding," and support the conclusion that the "injection blow molding" process disclosed by Schjeldahl could not possibly produce a biaxially oriented polymeric balloon. 5
Indeed, the examiner agrees with appellant's position that injection blow molding could *not* produce a biaxially oriented balloon. See, for example, page 5 of the Final Rejection wherein the examiner states:
tatements that injection blow molding without stretching will not produce a biaxially oriented article are *true* ... (emphasis supplied).
The examiner goes on, in the same sentence, to state:
but since the reference produces a biaxially oriented article, clearly a stretching step must be used.
Again, on page 5 of the Answer, the examiner states:
Since Schjeldahl et al produces a biaxially oriented article it follows that a stretching step must be used in the injection blow molding process.
The inescapable facts are that Schjeldahl does not disclose a biaxially oriented catheter balloon and does not mention a stretching step.
[2] The examiner also relies upon the theory that Schjeldahl's catheter balloon is inherently biaxially oriented. On page 4 of the Answer, the examiner points out that inasmuch as the Patent and Trademark Office does not have the requisite laboratory equipment for testing, the burden shifts to appellant. However, the initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention rests

upon the examiner. *In re Piasecki,* 745 F.2d 1468, 223 USPQ 785 (Fed. Cir. 1984). In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied prior art. *In re King,* 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986); *W.L. Gore & Associates, Inc. v. Garlock, Inc.,* 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983); *In re Oelrich,* 666 F.2d 578, 212 USPQ 323 (CCPA 1981); *In re Wilding,* 535 F.2d 631, 190 USPQ 59 (CCPA 1976); *Hansgirg v. Kemmer,* 102 F.2d 212, 40 USPQ 665 (CCPA 1939). In our opinion, the examiner has not discharged that initial burden.

Schjeldahl does not provide any working example revealing the process conditions employed to produce the catheter balloon. We have *only* a general invitation to employ "injection blow molding." As previously discussed, it is undisputed that injection blow molding would *not* have produced a biaxially oriented balloon and would have destroyed the biaxially orientation of a polymeric starting material.

Schjeldahl does not disclose any particular tensile strength of the catheter balloon. We do not find sufficient factual basis or cogent scientific reasoning to support the conclusion that Schjeldahl's disclosure with respect to the ability of the catheter balloon to "withstand an internal inflation pressure in excess of 7 atmospheres without fear of rupture" (column 6 of Schjeldahl '989, lines 63 through 65) *necessarily* means that the catheter balloon is biaxially oriented. According to the membrane equation calculations reported in Levy's declaration (Exhibit IV), Schjeldahl's balloon could not possibly exhibit the tensile characteristics of a biaxially oriented balloon. Levy's calculations are *inconsistent* with those of Pinchuk (Exhibit III). Suffice it to say, the conflicting calculations taint the factual determination of inherency with impermissible conjecture. Indeed, the examiner, in the paragraph bridging pages 4 and 5 of the Answer, states that

the membrane equation used to determine the tensil [sic, tensile] strength can be manipulated to produce any desired value, and thus is misleading.

Nevertheless, the examiner goes on to favor Pinchuk's calculations by stating in that same paragraph that

ertainly use of the typically used wall thickness disclosed in Schjeldahl et al with the average radius, as done in the Pinchuk Declaration would be reasonable.

As noted above, the conflicting results obtained by applying the membrance equation, and the examiner's acknowledgment that that equation "can be manipulated to produce any desired value," underscore the speculative nature upon which the determination of inherency rests.

We do not find sufficient cogent technical reasoning and/or objective evidence to support the conclusion that Schjeldahl's characterization of the catheter balloon as inelastic in the axial and radial direction *necessarily* means that the catheter balloon is biaxially oriented. The characteristic "inelastic," as employed by Schjeldahl, apparently means that the catheter balloon will expand to a preformed diameter to enable precise measurement of the pressures exerted on the inner wall of the artery during the dilation procedure (column 4 of Schjeldahl '989, lines 12 through 17).

[3] In summary, Schjeldahl does not disclose a biaxially oriented catheter balloon. We do not find a sufficient basis to support the determination that Schjeldahl's balloon is *inherently* (necessarily) biaxially oriented. *In re King, supra; W.L. Gore & Associates, Inc. v. Garlock, Inc., supra; In re Oelrich, supra; In re Wilding, supra; Hansgirg v. Kemmer, supra.* Accordingly, the examiner's rejection of claims 13, 14, 16, 17 and 25, under 35 U.S.C. §102 as anticipated by Schjeldahl is reversed. 6

The Rejection of Claims 13 through 17 under 35 U.S.C. §103 Based upon the Combined Disclosures of Schjeldahl and Wyeth.

Wyeth is directed to producing high strength biaxially oriented polyethylene terephthalate beverage containers. The disclosed method involves stretching polyethylene terephthalate having a relatively high inherent viscosity; *e.g.,* at least about 0.85.

It is apparent from the Final Rejection and Answer that the examiner's rejection of the appealed claims under 35 U.S.C. 103 is *not* predicated upon the theory that one having ordinary skill in the art would have been led to employ Wyeth's technique to produce a biaxially oriented balloon for use in Schjeldahl's catheter. Instead, the examiner presupposes that Schjeldahl discloses a biaxially oriented catheter balloon. The examiner relies upon Wyeth *solely* for the disclosed use of high viscosity polyethylene terephthalate tubing. We refer to page 6 of the Answer, first complete paragraph, wherein the examiner explains the rejection by stating:

Wyeth et al is not being combined with Schjeldahl et al, but merely shows the claimed high viscosity PET (polyethylene terephthalate) and supports the examiners [sic, examiner's] inherency arguments. 7 ... The examiner is not substituting the process of Wyeth et al into Schjeldahl et al since both disclose the same process. 8 Arguments that Wyeth et al can't be scaled down are irrelevant since the examiner is not seeking to scale down that reference to produce the claimed article.

[4] We have already concluded that the examiner factually erred in determining that Schjeldahl expressly or inherently discloses a biaxially oriented catheter balloon. Assuming, *arguendo,* the examiner correctly concluded that one having ordinary skill in the art would have been led to employ a high viscosity polyethylene terephthalate tubing in producing Schjeldahl's catheter balloon, the rejection under 35 U.S.C. §103 must fall because the examiner has not established that the resulting catheter balloon is biaxially oriented. *Uniroyal, Inc. v. Rudkin-Wiley Corp.,* 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988).

Inasmuch as the examiner's rejection under 35 U.S.C. §103 is not predicated upon the theory that one having ordinary skill in the art would have been led to employ a conventional stretch blow molding technique, such as that disclosed by Wyeth, to produce Schjeldahl's catheter balloon, the motivation for such a combination is an issue which was not crystallized on appeal and was not confronted by appellant. However, in view of the examiner's gratuitous statement in the paragraph bridging pages 5 and 6 of the Answer, 9 we are constrained to address that issue.

There appears to be no dispute that one having ordinary skill in the art would have recognized the desirability of producing a biaxially oriented balloon for use in Schjeldahl's catheter, since biaxially oriented materials were known to exhibit high tensile strengths. The thrust of the evidence relied upon by the examiner is that one having ordinary skill in the art would have simply resorted to a conventional stretch molding technique to produce a biaxially oriented balloon for use in Schjeldahl's catheter, specifically, *the technique employed by Wyeth to produce a beverage container.* See paragraph 4 of the Rydell affidavit executed April 25, 1988 and offered in support of the protest in parent application Serial No. 914,108, paragraph 5 of the Pinchuk affidavit (Exhibit III), and paragraphs 4 and 5 of the Kaufman affidavit (Exhibit XII). Interestingly enough, *Wyeth disagrees.* See page 5 of Wyeth's declaration (Exhibit XI). Wyeth points out various differences between the PET bottles produced by his disclosed process and the requirements of a catheter balloon, and then concludes that his process could *not* be used to produce a catheter balloon of the type disclosed by Levy.

We are persuaded by Belcher's affidavits and Wyeth's declaration, notwithstanding the affidavits of Rydell, Pinchuk and Kaufman, 10 that the known processes for producing

biaxially oriented beverage containers, such as that disclosed by Wyeth, could not have been simply scaled down to produce a biaxially oriented catheter balloon for use in medical dilation procedures without the exercise of inventive skill. 11 Based upon the record before us, it would appear unrealistic to conclude that one having ordinary skill in the art would have been led to employ Wyeth's technique, which is designed to produce beverage containers, to produce Schjeldahl's catheter balloon, motivated by a *reasonable expectation* of obtaining a *biaxially oriented* polymeric catheter balloon. *In re O'Farrell,* 853 F.2d 894, 7 USPQ2d 1673 (Fed. Cir. 1988). The rejection under 35 U.S.C. §103 is also reversed.

REVERSED.

Footnotes

Footnote 1. Each of the Schjeldahl references contains essentially the same relevant disclosure. Accordingly, unless otherwise indicated, we have referred to these references collectively as "Schjeldahl," consistent with the approach adopted by both appellant and the examiner.
Footnote 2. See footnote 1.
Footnote 3. Schjeldahl characterizes the catheter balloon as an expander.
Footnote 4. Unless otherwise indicated, all exhibits mentioned are the exhibits to appellant's Brief.
Footnote 5. We recognize that a high burden of proof is required to demonstrate the inoperability of a United States patent. *In re Weber,* 405 F.2d 1403, 160 USPQ 549 (CCPA 1969); *In re Michalek,* 162 F.2d 229, 74 USPQ 107 (CCPA 1947). However, as noted above, Schjeldahl does not disclose a catheter balloon made *of* a biaxially oriented plastic. Therefore, appellant's evidence is not an attack on the operability of Schjeldahl, but quite relevant to the issue of inherency, *i.e.,* whether the catheter balloon disclosed by Schjedahl is inherently biaxially oriented.
Footnote 6. There is evidence of record that Dupont, the assignee of the application, furnished biaxially oriented polyethylene terephthalate to Schjeldahl when he informed Dupont personnel that he required a thin, high strength polymeric film having a tensile strength in the range of 20,000-40,000 psi. See the Schjeldahl affidavit (Exhibit VIII) and the Dengler declaration executed on May 21, 1988 and appended to the protest submitted in parent application Serial No. 914,108. Such facts are not inconsistent with our determination that Schjeldahl does not disclose a biaxially oriented polyethylene terephthalate catheter balloon. The Rydell affidavit appended to the protest in the parent application does not persuade us that Schjeldahl expressly or inherently discloses a biaxially oriented polymeric catheter balloon. See Belcher's affidavit (Exhibit VI).
Footnote 7. Actually, according to the Final Rejection which is incorporated in the Answer,
t is the Examiner's position that it would be *prima facie* obvious to use the high viscosity polyethylene terephthalate of Wyeth in Schjeldahl et al to produce the claimed product (page 4, the only complete paragraph).
Footnote 8. It is apparent from our reversal of the examiner's rejection under 35 U.S.C. §102 that, in our opinion, Schjeldahl discloses neither a biaxially oriented catheter balloon nor a molding process which involves stretching.
Footnote 9. The noted statement provides:
Certainly in the least there was an *invitation* to make a biaxially oriented catheter balloon at the time of the Schjeldahl et al invention. Additionally injection stretch blow molding to produce biaxially oriented articles was well known at the time of the Schjeldahl et al invention (emphasis supplied).
Footnote 10. We agree with appellant that the credentials of Belcher and Wyeth in the relevant art appear more impressive than those of protestor's experts. According to the affidavit appearing as Appendix V, Belcher authored the chapter called "Blow Molding of Polymers" for the fifth edition of the Plastic Engineering Handbook of the Society of Plastics Industry. In addition, Belcher authored two chapters, one on "injection blow molding" and one on "stretch blow molding" for the Blow Molding Handbook of the Society of Plastics and Engineers. We consider Wyeth's opinion with respect to the capabilities of his own invention entitled to greater weight than the opinions of Rydell, Pinchuk and Kaufman.
Footnote 11. We find it somewhat unrealistic in light of the apparent disparities in size and function, Belcher's affidavits and Wyeth's declaration, that Pinchuk and Kaufman equate beverage bottles to catheter balloons. See paragraph 10 of the Pinchuk affidavit (Exhibit III), wherein it is stated
s a blow molded polymeric article, a bottle and a catheter balloon are equivalent.

See, also, paragraph 4 of the Kaufman affidavit (Exhibit XII), wherein it is stated that anyone with ordinary skill in the plastics art would know how to make a biaxially oriented PET balloon; it would be similar to making a biaxially oriented PET bottle because both catheter balloons and bottles are equivalent structures - they are both fluid containers.

- End of Case -

